

TTAB

05-12-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #64

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Application Serial No. 76/407,781  
Mark: "QUENDIAN"

CENDIAN CORPORATION,

Opposer,

vs.

QUENDIAN INTERNATIONAL, INC.,

Applicant.

Opposition No. 91155249

**APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW the Applicant, Quendian International, Inc. ("Applicant"), and files its Answer and Affirmative Defenses to the Notice of Opposition, filed by Cendian Corporation ("Opposer"), as follows:

With respect to the unnumbered introductory paragraph, Applicant is without knowledge sufficient to form a belief as to the allegation of the organizational status of Opposer and the address of Opposer, and therefore denies same. Applicant denies that Opposer will be damaged by the issuance of a registration to said application. Applicant further denies all other allegations contained therein.

1. Applicant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 1 of the Notice of Opposition, and therefore denies same.

2. Applicant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 2 of the Notice of Opposition, and therefore denies same.

3. Applicant is without knowledge sufficient to form a belief as to the allegations contained in paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant admits that it is a Florida corporation with a principal place of business at 650 West Avenue, #1612, Miami Beach, Florida 33139. Applicant admits that it filed a trademark application for the mark "QUENDIAN" on May 14, 2002, for use in connection with business management and consultation in International Class 035. Applicant further admits that the stated date of first use in commerce is October 10, 2001. Applicant denies all other allegations contained therein.

5. Applicant admits that it is using the mark "QUENDIAN" in connection with the goods stated in the application. Applicant is unclear as to Opposer's definition of the terms "field of logistics, including global supply chain management", and therefore is without knowledge sufficient to form a belief as to the the allegations contained in paragraph 5 of the Notice of Opposition, and therefore denies same. Applicant denies all other allegations contained therein.

6. Applicant denies the allegations contained in paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations contained in paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations contained in the WHEREFORE clause of the Notice of Opposition.

9. Applicant denies any and all allegations of the Notice of

Opposition not specifically admitted herein.

**AFFIRMATIVE DEFENSES**

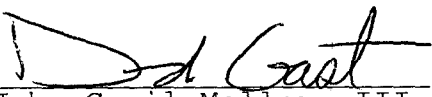
1. The Notice of Opposition fails to state a claim upon which relief may be granted.
2. Opposer lacks standing to oppose.
3. Applicant maintains senior rights in the mark "QUENDIAN".
4. Opposer has failed to join an indispensable party.
5. The marks have co-existed in commerce without any instances of confusion.
6. There is no likelihood of confusion.

WHEREFORE, Applicant prays that the Opposition be dismissed with prejudice.

Respectfully submitted,

Dated: May 7, 2003

By:

  
John Cyril Malloy, III  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer and Affirmative Defenses was served upon the following:

Elizabeth Ann Morgan, Esq.  
Jennifer L.F. Cohen, Esq.  
POWELL, GOLDSTEIN, FRAZER & MURPHY LLP  
191 Peachtree Street, N.E., 16<sup>th</sup> Floor  
Atlanta Georgia 30303

by United States mail, postage pre-paid this 7th of May, 2003.


Respectfully submitted,

By:   
David A. Gast  
Florida Bar No. 176,567

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that a copy of the foregoing answer was deposited by United States Postal Service as first class mail in an envelope addressed to: BOX TTAB, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, this 7th of May, 2003.

Respectfully submitted,

By:   
David A. Gast  
Florida Bar No. 176,567